



The Legal 500 Country Comparative Guides

Mexico

FINTECH

Contributor

Nader, Hayaux & Goebel



Adrián López González

Partner | alopez@nhg.com.mx

José Humberto Rocha Saade

Partner | jrocha@nhg.com.mx

Mauricio López Melo

Associate | mlopez@nhg.com.mx

María Fernanda López LL.

Associate | mlopezl@nhg.com.mx

This country-specific Q&A provides an overview of fintech laws and regulations applicable in Mexico.

For a full list of jurisdictional Q&As visit legal500.com/guides

MEXICO FINTECH



1. What are the sources of payments law in your jurisdiction?

Payments and payment systems are regulated level by several federal laws and regulations. The main laws governing payments and payment systems in Mexico are: the Mexican Constitution, the Law of Payment Systems (*Ley de Sistemas de Pago*), the Central Bank Law (*Ley del Banco de México*), the Law for the Transparency and Order of the Financial Services (*Ley para la Transparencia y Ordenamiento de Servicios Financieros*), and the Law to Regulate Financial Technology Institutions (*Ley para regular las Instituciones de Tecnología Financiera*, the “Fintech Law”). The constitution grants the Mexican Central Bank (Banco de México, “Banxico”) constitutional autonomy and the mandate to among others, regulate financial services in Mexico. The Central Bank Law stipulates Banxico’s main purposes, including, among others, promoting the well-functioning of Mexican payment systems. The Law of Payment Systems sets out the requirements for a payment system to be considered systemically relevant, Banxico’s broad authority to regulate and supervise such systems, and a framework for the clearing and settlement of transactions through such systems. The Law for the Transparency and Order of the Financial Services provides Banxico and the National Banking and Securities Commission (Comisión Nacional Bancaria y de Valores, “CNBV”) provide additional tools to regulate payment systems and promote their transparency and competitiveness, including the regulation of fees charged by the participants of card networks. The Law to Regulate Financial Technology Institutions introduces electronic payment funds institutions (*instituciones de fondos de pagos electrónicos*, “IFPEs”), which main purpose is to keep e-wallets on behalf of their clients. Relevant secondary regulation issued by Banxico and/or by CNBV include: (i) Rule (Circular) 14/2017, which regulates the Mexican Peso denominated Interbank Electronic Payments System (SPEI) (amended in 2019 to implement a P2P online and mobile payment system called CoDI (Cobro Digital)); (ii) the Regulations applicable to the Network of Means of Utilization of Funds (*Disposiciones*

de carácter general aplicables a los Medios de Pago), which specifically regulate card networks (the “Payment Regulations”); and (iii) the Regulations applicable to IFPEs (*Disposiciones de carácter general aplicables a las Instituciones de Tecnología Financiera and Disposiciones de carácter general aplicables a las Instituciones de Fondos de Pago Electrónico*). The Anti-Money Laundering Law (*Ley Federal para la Prevención e Identificación de Operaciones con Recursos de Procedencia Ilícita*, the “AML Law”), its regulations and interpretative notes by the Financial Intelligence Unit (*Unidad de Inteligencia Financiera*) also apply to payment systems, among others, given that they apply to issuers and distributors of prepaid, debit, credit and service cards, traveler checks issued by entities other than financial entities, as well as cryptocurrency exchanges. There is little case law issued with respect to payment systems laws and regulations, however, there are important judicial holdings to take into consideration by any participant in a card system, including precedents regarding authenticity and use of electronic signatures, vouchers and burden of proof with respect to authorisation of transactions.

2. Can payment services be provided by non-banks, and if so on what conditions?

Yes, payment services in Mexico can be provided by non-banks. However, the regulation and required licensing applicable to payment services providers (“PSPs”) may vary depending on the type of services offered by PSPs. In card payment acceptance services, acquirer and aggregation services do not require an ad hoc authorisation or license. Nevertheless, they are subject to the reporting and registration obligations set forth in the Payment Regulations, which include, among others, registering their fees with Banxico and CNBV and delivering a yearly informative notice to CNBV. Additionally, any person rendering acquirers, aggregators, brand owners or issuers any services that are required for such entities to carry out their operations in a card network, is catalogued as a specialized entity under the Payment Regulations.

Specialized entities do not require a license or authorisation to operate. However, they are subject to specific obligations under the Payment Regulations such as reporting obligations. Finally, we note that certain activities that are usually performed by PSPs may qualify as regulated activities which require a license, registry or authorisation under the Mexican law, including (i) solicitation and receipt of deposits, and depository account keeping services, (ii) money remittance services, and (iii) currency exchange services. PSPs, especially those operating on a cross-border basis, should be cautious to structure their operations to avoid being considered as regulated entities.

3. What are the most popular payment methods and payment instruments in your jurisdiction?

Although there is a significant increase in the use of electronic payments in Mexico, and despite many users during the Covid-19 pandemic preferred the use of electronic platforms, cash remains to be the most widely used payment method in Mexico for retail transactions. According to the National Institute of Statistics and Geography (INEGI), 78.7% of retail purchases over US\$25 in Mexico are paid in cash. Pursuant to data from the National Commission for the Protection and Defense of Users of Financial Services (CONDUSEF), the use of debit and credit cards for online retail purchases has increased significantly in the past years. The number of online purchases using debit or credit cards continues to grow in the Mexican public. Payments with debit cards, which represent approximately 69.9% of the total transaction volume prevail over payments with credit cards. However, higher value transactions are generally paid with credit cards, representing about 51% of the total transaction volume. As mentioned above, back in 2019, Banxico launched a P2P online and mobile payment system called CoDI (Cobro Digital) for purposes of, among others, providing necessary infrastructure for the issuance and reception of payment instructions to a large portion of the population that still mainly relies on cash. Although the use of CoDI continues to increase, it continues to be an underused payment pool, as it only reports an average of 9.7 thousand transactions per business day and 5.4 thousand transactions in non-business days. Additionally, as a result from the Covid-19 pandemic, commercial banks have developed and implemented more online e-payments apps, such as Santander Super Wallet, BBVA's Wallet and Citibanamex's Pay, since according to the Mexican Banking Association (ABM), in 2022, 1.2 billion transactions were made through mobile banking, resulting in an increase of 77%, from previous years.

The Mexican Federal Government continues to make significant efforts to promote financial inclusion, and welcomes initiatives aiming to do so.

4. What is the status of open banking in your jurisdiction (i.e. access to banks' transaction data and push-payment functionality by third party service providers)? Is it mandated by law, if so to which entities, and what is state of implementation in practice?

The Fintech Law aims to promote competition and financial inclusion by requiring Mexican financial entities (including commercial banks), money remittance entities, credit information entities, clearing houses, IFPEs and companies authorised to operate with novel models, also known as regulatory sandboxes ("Authorised Entities"), to implement application programming interfaces ("APIs"), and to share information of their customers through such APIs. Taking into consideration that said requirement is directed to several financial entities, Mexico can be considered as a pioneer not only in open banking but also in open finance. APIs and the sharing of information must meet the requirements set forth by the CNBV, Banxico or the corresponding regulators of the relevant entities. The information to be shared through APIs is classified under the Fintech Law as: (i) open data, including, among others, non-confidential financial information related to the services offered by the entities; (ii) aggregated data, consisting in statistical and information related to operations made by or through Authorised Entities; and (iii) transactional data, defined as information related to the use of financial products and services by a customer, including deposit accounts and credits. We note that transferring transactional data of customers requires express consent from the respective owner in all cases. On June 4, 2020, the CNBV issued the Regulations applicable to APIs (*Disposiciones de carácter general relativas a las interfaces de programación de aplicaciones informáticas estandarizadas a que hace referencia la Ley para Regular las Instituciones de Tecnología Financiera*). The regulations are applicable to the rest of the Authorised Entities (financial entities, IFPEs, money remittance entities and companies authorised to operate with novel models) but only regulate the treatment of open data. Banxico has the authority to issue regulations governing the sharing of transactional information, however, regulation applicable to aggregated and transactional data is still pending. Similarly, Banxico published Rule (Circular) 2/2020 which is applicable to credit rating agencies and clearing houses. The Circular stipulates among other things,

requirements to obtain the prior authorisation from Banxico to set up the relevant APIs. Each of the Banxico regulated entities shall describe the aggregated data per type of transaction that is intended to be shared through the API. Also, the entities accessing the information should be previously authorised by Banxico for such purposes. The fees and access terms and conditions should also be approved by Banxico. APIs offering push-and pull-payment products and services are not specifically addressed by the Fintech Law. Under the Mexican law, the control of accounts and e-wallets correspond at all times to the respective account holders. Any product or service enabling a person different to the account holder, to originate transactions in the latter's account, should be carefully assessed in order to determine its compliance with Mexican law. The participants of the Mexican fintech market are expecting the pending regulation, given that the access to such data will enable them to develop and offer new and innovative financial products and services. Regulation of aggregated data and transactional data is expected to be issued throughout the year. The CNBV has made public its efforts to complete the secondary regulations which is crucial for the development of the Mexican fintech environment. APIs continue to be one of the most important technologies used by startups for sourcing new financial products and services.

As a result of the implementation and continuous growing of open banking services in México, in early 2022 the Mexican regulator authorized the first fintech entity engaged in the open-banking sector. Belvo, who was authorized as an electronic payment funds institution, provides open banking services that allows users to share their banking information with third parties through APIs. To do so, such entity collects its clients consent in compliance with all the privacy and security requirements set forth in the applicable Mexican regulation.

In our view we consider that the open-banking and open-finance model will become one of the main allies for financial institutions, benefiting end-customers, by offering tailored products and services, faster access to credit and financing, data security, and transparency. Finally, the implementation of open-banking services will remain crucial to reduce the information concentration risk derived from a high concentration of the market by large Mexican financial institutions, increasing competition in the sector and ultimately, benefiting endcustomers.

5. How does the regulation of data in your jurisdiction impact on the provision of

financial services to consumers and businesses?

Mexico has a robust set of laws and regulations governing data privacy, including the Federal Law on Protection of Personal Data Held by Private Parties (*Ley Federal de Protección de Datos Personales en Posesión de los Particulares*) and its secondary regulation (jointly, the "Data Protection Laws"). Data Protection Laws are applicable to entities (other than credit information entities) that receive and process information of individuals in Mexico, and stipulates the principles, requirements and obligations for any individual or entity to treat, use, disclose and transfer such personal data. The main obligation for a data controller is to deliver a privacy notice to the data owner and obtaining its consent to treat the information in accordance with the privacy notice. Data controllers should also appoint a data protection officer, as well as adopt and maintain security measures with respect to personal data, which are at least equivalent to those adopted for its own information. In addition, banks, IFPEs and other depository institutions, as well as broker dealers and other financial entities are subject to the relevant secrecy provisions set forth in their relevant applicable laws and regulations. Acquirers, aggregators and issuers in a card network are also subject to the security standards set forth in the Payment Regulation, which include obligations to implement determined security measures, encrypt personal information of the cardholder, control access to data bases, etc.

6. What are regulators in your jurisdiction doing to encourage innovation in the financial sector? Are there any initiatives such as sandboxes, or special regulatory conditions for fintechs?

The Fintech Law is based on principles of innovation and inclusion, and the policy of Mexican financial authorities is to further those principles in their regulations. Considering the foregoing and acknowledging the ever-changing nature of the fintech industry, the Fintech Law introduced the regulatory framework applicable to sandboxes. The sandbox authorization provided in the Fintech Law enables nonfinancial entities to temporarily offer financial services by means of a novel model (using tools or technological means differing from those existing in the market), approved by the applicable authority, which would otherwise require a license or authorisation pursuant to Mexican financial laws. Additionally, the Fintech Law allows CNBV and Banxico to give a sandbox authorisation to financial entities to temporarily operate novel models with activities that are

restricted by the laws and regulations governing them. Banxico has been particularly active in promoting innovation mainly to encourage financial inclusion. CNBV has actively partaken in the “Sandbox Challenge” open competition to incentivize innovation and has traditionally taken an open stance towards innovation and use of technology by applicants and financial entities. Finally, we note that the National Commission for the Pension System (*Comisión Nacional de Servicios de Ahorro para el Retiro*) as well as the National Insurance and Bond Commission (*Comisión Nacional de Seguros y Fianzas*) have issued regulations setting forth the requirements and procedures to obtain an authorisation to operate novel models to offer products or services which are otherwise restricted to entities authorised by such regulators. We consider that despite the CNBV has not yet authorized any sandbox model, the entities requesting an authorization to operate with such models, has been increasing in the last few months, since such models provide an opportunity for entrepreneurs to consolidate financial innovation, and specifically in the insurtech sector, will provide an opportunity for entrepreneurs to dabble in the Mexican pension system and engage Mexican Pension Funds (Afores), which currently hold around MXN\$7trillion (approximately USD \$350 billion) in assets under management.

7. Do you foresee any imminent risks to the growth of the fintech market in your jurisdiction?

The Mexican fintech market continues to grow in spite of the local effects of worldwide inflation as CNBV continues to supervise the market for unfair practices that may lead to the distrust of the public in the Mexican regulated entities, procuring a levelled ground for its participants. The risk of a change of policies that restrict the use of technology in the market or the participation of new entities seems to be rather low. The regulator has shown no intention to overregulate the industry or limit the use of new technology and business models. The short term challenge for the fintech market continues to be to displace cash as the preferred payment instrument. Tackling such challenge will require a coordinated effort by the administration and the market participants to convey trust and reliability to the users. The long term challenge for the fintech market to explode to its fully potential is to further financial education in the population since childhood. The Mexican fintech environment is dominated by payment services and consumer lending, which are markets that will likely see a strong recuperation in the following months.

Recently, certain pay-day loans and lease companies

have defaulted on their financings and have begun restructuring processes. The foregoing has drawn attention from the media and the regulators, which we understand are analysing any adjustments to their regulatory approach with respect to those entities.

8. What tax incentives exist in your jurisdiction to encourage fintech investment?

There are no specific tax incentives encouraging investment in fintech in Mexico.

9. Which areas of fintech are attracting investment in your jurisdiction, and at what level (Series A, Series B etc)?

Payment services and consumer lending sub-segments represent almost 40% of the Mexican fintech market. These are also the sub-segments that are attracting the most investments into MexicoSoFi, Goldman Sachs, Softbank, Dalus Capital, Ignia Partners and IFC are among the international investors that have invested in Mexican fintech startups, particularly in Series A and B of such entities. The credit defaults of certain pay-day loan, individual loans and lease companies has depleted a substantial portion of their market value, thereby signalling investors to take a more conservative approach to the lending and leasing sector. Investments through strategic partnerships between banks and startups are also present in the market and will continue to develop in the future once the open banking regulations are issued. We have also seen significant investments in terms of research and development in connection with cryptocurrencies, blockchain based systems, proptech and crowdfunding. Finally, according to Finnovista, payments and remittances services represented the strongest sub-segment before, however, as a consequence of the pandemic, 87% of families suffered a reduction in their incomes making the lending sub-segment the biggest one.

In our opinion, to continue being one of the most attractive jurisdictions for investment, we must work along with the authorities to try to fill-in several gaps yet to address, including clear regulation for open-banking and fintech as a service (FaaS), which could attract more investors into the Mexican fintech sector and result in benefits for the users at large.

10. If a fintech entrepreneur was looking for a jurisdiction in which to begin

operations, why would it choose yours?

Mexico has been one of the pioneer countries to enact a fintech statute, becoming a watershed in the LATAM region. As a result, Mexico has implemented a thriving fintech ecosystem founded in users that are increasingly technology savvy, communicated and are willing to migrate to a technology based economy, as well with regulators focused on the user and allowing participation in the market. The depth of the market explains the very low failure rate of entities in Mexico. The number of fintech startups continues to rise steadily, According to a study by the Visa Innovation Center, Mexico is considered the leader in business innovation in Latin America, and provides entrepreneurs with a solid regulatory framework giving legal certainty to innovate and develop disruptive projects. According to J.P. Morgan, Mexico's e-commerce market is valued at US\$22.6 billion, and according to the World Bank and McKinsey more than half of Mexican small-and medium sized companies have no access to financial services. The foregoing has resulted in social culture that traditional financial services providers, such as banks, have not been able to fully overcome, despite the efforts and resources invested in it. Fintech entities are becoming a major change factor in these regards and are proving to be a substantial part of the solution that is likely to change the financial social culture in Mexico. Mexico continues to be an investment friendly jurisdiction with an exceptionally large number of free trade agreements, investment protection and double taxation treaties. The Mexican legal mainframe for private equity transactions is sound and well established, and the regulation on fintech is designed to allow private and public investments in the sector.

11. Access to talent is often cited as a key issue for fintechs - are there any immigration rules in your jurisdiction which would help or hinder that access, whether in force now or imminently? For instance, are quotas systems/immigration caps in place in your jurisdiction and how are they determined?

Foreign employees in Mexico are allowed to work in Mexico provided they obtain a temporary working visa or a visiting visa to carry out remunerated activities. To obtain any of such visas the employer must file an application with the National Immigration Institute (*Instituto Nacional de Migración*) requesting the visa based on a job offer. There is no current or coming regulation that may facilitate access to talent for Fintechs. We do not expect to see in the near future any

change in immigration regulation affecting particularly access to fintech talent given that the industry has no influence on immigration policies.

12. If there are gaps in access to talent, are regulators looking to fill these and if so how? How much impact does the fintech industry have on influencing immigration policy in your jurisdiction?

Financial entities, fintech associations and universities are the main promoters of talent for the fintech industry in Mexico. The contribution of the regulator in the promotion of talent is more visible in the controlling side of the business, where internal comptrollers have to be certified by the regulator. Nonetheless, we do not see substantial gaps in access to talent. The Mexican fintech industry is covered either by local talent or by foreign talent under the current standard immigration regulation, in fact during recent years, we are seeing young talent seeking to be part of the largest Mexican fintech entities.

13. What protections can a fintech use in your jurisdiction to protect its intellectual property?

The Copyright Law (*Ley Federal del Derecho de Autor*) provides express protection to computer programs. Such protection covers application softwares and operating systems in both, source code and object code. Other type of developments such as databases may also be subject to protection under the Copyright Law, as long as they are deemed intellectual creations based on the selection and layout of data or information. The use, reproduction or profit obtained from a copyright work without the previous consent of the copyright owner would be a breach to the Copyright Law. The copyright owner may claim for compensation before the Industrial Property Mexican Institute ("IMPI") who may declare injunctions or impose fines. The Industrial Property Law (*Ley Federal de la Protección a la Propiedad Industrial*) provides useful protections for Fintechs, for example regarding trade secrets and trademarks. For a trade secret to be protected, it must mean a commercial advantage and it must be kept confidential. In the event of misappropriation by a third party, the owner of the trade secret may initiate actions and claim compensation for unfair competition. Regarding trademarks, fintech providers must register their brands with the IMPI to obtain the exclusivity right to use of their brand within Mexican territory. On July 1, 2020, the United States-Mexico-Canada Agreement (USMCA) entered into force (replacing the 1994 North America

Free Trade Agreement). The new USMCA (known as T-MEC in Mexico) increases the standards for intellectual property protection in Mexico. The USMCA establishes a number of requirements to be met by the three signatory countries to improve protection to intellectual rights. Among them, the USMCA requires the parties to enact regulation for tougher sanctions and effective actions against infringement of intellectual property.

14. How are cryptocurrencies treated under the regulatory framework in your jurisdiction?

The Fintech Law, its secondary regulation including Rule (Circular) 4/2019 issued by Banxico, and the AML Law, establish the regulatory framework for cryptocurrencies, which are defined therein as virtual assets. Each virtual asset should be carefully analysed to determine its legal attributes, especially in view of any tokens associated therewith. The classification and legal treatment of a virtual asset may vary drastically depending on the characteristics of the virtual asset and its corresponding token, and such characteristics may determine the rules applicable to the offering, distribution, custody and even taxation of such virtual assets and any transactions involving them. That being said, a large number of virtual assets may be characterized, as a rule of thumb, as movable intangible and fungible properties for Mexican law purposes. Virtual assets are not considered national or foreign fiat currency even if they are stable coins. Notwithstanding the above, virtual assets referred to national or foreign fiat currency are not considered as such under the Mexican law (stablecoins). However, a law project modification to the Banxico Law eliminates the possibility to exclude these types of cryptocurrencies from the legal framework.

The Fintech Law grants ample regulatory authority to Banxico with respect to virtual assets. Banxico has adopted a very cautious position regarding the distribution of virtual assets in Mexico, among others, because, among others Banxico perceives that the public may not have sufficient information to adequately understand the complexities associated with a virtual asset there may be information asymmetries between the public and the operators of such assets, and also there may not be an objective basis to determine the value, supply and offer with respect to virtual assets. On the other hand, the regulators have also stated their concern in terms of cybersecurity risks, who has been one of the mayor topics discussed by international regulators, since technological vulnerabilities, including cyber-attacks and cyber-frauds to cryptocurrencies exchanges and platforms have been increasing in the recent years.

As a result of the above, Banxico has opted to put some “safe distance” between virtual assets (and their perceived risks) and the Mexican public. Although the Fintech Law provides that IFPEs may keep virtual assets denominated accounts for their clients, and that banks may carry out transactions with respect to cryptocurrencies, in both cases, solely with respect to cryptocurrencies approved by Banxico, Rule (Circular) 4/2019 issued by Banxico restricts the use of virtual assets by Fintechs and banks to “internal operations” (i.e., operational transactions whereby any risks stemming from the virtual assets are assumed by the entity), and solely with respect to virtual assets that are approved to each entity after a thorough authorisation procedure that includes practically every aspect of the virtual asset, its characteristics, operation and market, as well as a clear identification of the “internal operation”. In addition to the foregoing, Banxico has amended the regulations governing the SPEI to increase the KYC/AML requirements of depositary institutions with respect to their clients engaged in the transfer of virtual assets. On the other hand, any Mexican entity offering virtual asset exchange or custody services in Mexico is subject to the compliance requirements set forth in the AML Law (among others, keeping KYC files and meet certain reporting requirements).

15. How are initial coin offerings treated in your jurisdiction? Do you foresee any change in this over the next 12-24 months?

Initial coin offerings (“ICOs”) are not specifically regulated in Mexico. Currently, the authorisations to operate cryptocurrencies do not contemplate ICOs, but only exchange, transfer and custody of cryptocurrency. We do not expect regulation on ICOs will be issued within the next year.

16. Are you aware of any live blockchain projects (beyond proof of concept) in your jurisdiction and if so in what areas?

There are certain blockchain-based products designed and operated by foreign payment processors that operate in Mexico today and that simplify the operation of multiple accounts for international remittances. An example of a live blockchain project in Mexico is Prescripto. This product enables medical doctors to issue, sign, track and record digital prescriptions keeping sensitive clinical data safe using blockchain technology. The blockchain technology prevents prescription frauds and makes more efficient the provision of health services. Also, a few months ago, the local Government of Monterrey in Mexico, presented a project called

“Monterrey Digital City” before its Innovation and Open Government Secretary, a platform based in blockchain with which the government seeks to develop innovation, providing an open data portal that seeks to ensure efficiency within their administration and public transparency to the population.

Finally, many organizations like the Mexican Blockchain Network and LACChain have facilitated group works and technological infrastructure to empower the Blockchain sector.

17. To what extent are you aware of artificial intelligence already being used in the financial sector in your jurisdiction, and do you think regulation will impede or encourage its further use?

Pursuant to a survey conducted by GFT Technologies in 2017, 63% of surveyed Mexican bank executives, a high amount in comparison to other countries, noted the important role that artificial intelligence plays in the digital transformation of financial services. As part of their obligations under the open banking regulations (see question 4 above), Mexican banks and other financial entities will increasingly use artificial intelligence for the processing of shared data. Efficient data processing would result in an increased offering of better-designed financial products and services, and therefore would also promote the much-needed financial inclusion. The implementation of many AI related processes by financial entities will in many instances have to be outsourced to non-Mexican service providers, and may be subject to the approval of the regulators (specially CNBV). Additionally, several banks and other financial entities have implemented artificial intelligence in their internal (operative) tasks, including customer services. There are artificial intelligence tools to deliver “roboadvisory” services for asset managers, and treasury services. Unfortunately, the regulations applicable to sharing transactional and aggregated data are still pending, which are crucial to encourage open banking and artificial intelligence to be applied in connection therewith. It is expected that more robust Regtech will be deployed by financial authorities to oversee financial entities in Mexico, especially for anti-money laundering purposes. Correlatively, financial entities will use artificial intelligence to meet the Regtech requirements, and also to drive down the costs (and increase the efficiency) of their anti-money laundering compliance burden. As an example of the implementation of AI in the financial sector internal processes, one of the recent fintechs who reached a unicorn value, Incode, has partnered with CitiBanamex, a mayor financial institution in México, to offer its

identity verification and authentication platform based on AI.

In our view, the regulatory approach towards the use of artificial intelligence by financial entities will continue to promote the use of artificial intelligence in the financial sector heightening the responsibilities chief information officers and holding financial services and operations (whether automated or not) to the same standards.

18. Insurtech is generally thought to be developing but some way behind other areas of fintech such as payments. Is there much insurtech business in your jurisdiction and if so what form does it generally take?

Insurtech must be understood as the use of new technology to improve the quality and increase business opportunities at various value-added phases in the insurance industry. Insurtech projects have increased significantly in several areas of the insurance industry such as distribution, underwriting, valuation, prevention, claims handling, risk distribution, among others.

19. Are there any areas of fintech that are particularly strong in your jurisdiction?

According to data from the Statista Research Department, it estimated that by 2022 there will be more than 74 million fintech users in Mexico, most of them in the digital payments segment, but with a growing number in other segments such as lending and personal finance. Given the continuous growth and transition to electronic payment means, most of the entities that applied for a fintech license, were the ones specialized in such area, thus during the last months, most of the authorizations granted by the Mexican regulator have been specifically for electronic payment funds institutions.

20. What is the status of collaboration vs disruption in your jurisdiction as between fintechs and incumbent financial institutions?

From a high-level perspective, Fintechs are disruptive in the Mexican market as they have gained a significant penetration in the payments market, which continues to be dominated by the seven largest commercial banks. Commercial banks and other depositary institutions (including popular financial entities similar to thrifts) have generally welcomed the collaboration with

Fintechs, especially IFPEs, and have been opting to join the BaaS (banking as a service) field, offering their APIs to third parties so, especially startups, can create new financial products without having to be part of the traditional banking sector, which also benefits the financial sector and enables financial inclusion

Depository institutions realized that their strategic alliances with IFPEs and payment service providers result in an increase of their liabilities. Certain depository institutions have partnerships with Fintechs, whereby Fintechs design and offer new payment products and depository institutions take care of the account keeping and compliance part of the business. These alliances have resulted in an accelerated time-to-market for a number of products. We also expect that bigger Fintechs will eventually have the intention of migrating their business model into a bank or thrift. It is to be expected that as the Fintechs grow stronger and claim their legitimate place in the (still) bank dominated payments market, bigger players will be vigilant for investment, co-investment and acquisition opportunities. In the following years, we may see an increased M&A activity in the sector. Crowdfundings have been regulated as microfinance entities and although they have had good penetration in the market, we would expect to see a strong growth in the use of crowdfundings by the public (both as an investment opportunity and as a funding alternative) in the years to come, as there is an enormous potential market for their services, and they may easily coexist with other well established microfinance products (such as pay day loans, and pawn shops).

21. To what extent are the banks and other incumbent financial institutions in your jurisdiction carrying out their own fintech development / innovation programmes?

The vast majority of banks and other financial institutions have internalized fintech R&D and are active in developing their own innovation programs and developments. Some of the biggest commercial banks

invest heavily in fintech tools, and banks affiliated with foreign financial institutions take advantage of the fintech developments of their (most times, larger and more invested) parent companies. For example, in recent years, several Mexican banks have been partnering with digital banking services providers, such as Getxerpa who helps financial institutions implement technology via cloud-hosted APIs, helping traditional banks to set up financial health and customer tracking tools, which has been already implemented by both traditional financial institutions such as Santander, and entities such as Nubank, Stori and Albo. Incumbent financial institutions will continue to carry their own R&D in fintech tools while keeping a close proximity with the new developments launched in Mexico.

22. Are there any strong examples of disruption through fintech in your jurisdiction?

At this point in time, disruption has been more about how financial services are delivered more than about how much have such disruptive agents penetrated the market. We see strong disruption in (i) payday and personal lending, (iii) targeted, simpler and customer friendly payment products, (ii) how cryptocurrencies are being introduced in Mexico for investors and financial entities (including remittance companies), (iv) distribution of personal investment products, (v) open-banking services; and (vi) more available funding in crowdfundings. We are also aware of a number of projects that will be deployed shortly and may have a disruptive effect by offering a more comprehensive scope of electronically delivered services to the end user. We see how developers and data processors strive to deliver better solutions to meet security requirements, increase levels of service and more efficient and reliable IT services. With the recent increase of fintech authorizations, we are likely to see significant examples of disruption through fintech in Mexico as novel models, which will foreseeably disrupt the market.

Contributors

Adrián López González
Partner

alopez@nhg.com.mx



José Humberto Rocha Saade
Partner

jrocha@nhg.com.mx



Mauricio López Melo
Associate

mlopez@nhg.com.mx



María Fernanda López LL.
Associate

mlopezl@nhg.com.mx

